

REFERENCE TITLE: ombudsman-citizens aide; school law

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2092

Introduced by
Representative Anderson

AN ACT

AMENDING SECTION 41-1376, ARIZONA REVISED STATUTES; RELATING TO THE OFFICE OF OMBUDSMAN-CITIZENS AIDE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-1376, Arizona Revised Statutes, is amended to
3 read:

4 41-1376. Powers and duties

5 A. The ombudsman-citizens aide shall:

6 1. Investigate the administrative acts of agencies pursuant to section
7 41-1377, subsections A and B except as provided in section 41-1377,
8 subsections C, D and E. The ombudsman-citizens aide shall investigate the
9 administrative acts of an agency without regard to the finality of the
10 administrative act.

11 2. Annually before January 1 prepare a written report to the governor,
12 the legislature and the public that contains a summary of the
13 ombudsman-citizens aide's activities during the previous fiscal year. The
14 ombudsman-citizens aide shall semiannually present this report before the
15 legislative council. This report shall include:

16 (a) The ombudsman-citizens aide's mission statement.

17 (b) The number of matters that were within each of the categories
18 specified in section 41-1379, subsection B.

19 (c) Legislative issues affecting the ombudsman-citizens aide.

20 (d) Selected case studies that illustrate the ombudsman-citizens
21 aide's work and reasons for complaints.

22 (e) Ombudsman-citizens aide's contact statistics.

23 (f) Ombudsman-citizens aide's staff.

24 3. Before conducting the first investigation, adopt rules that ensure
25 that confidential information that is gathered will not be disclosed.

26 4. Appoint a deputy ombudsman and prescribe the duties of employees
27 or, subject to appropriation, contract for the services of independent
28 contractors necessary to administer the duties of the office of
29 ombudsman-citizens aide. All staff serves at the pleasure of the
30 ombudsman-citizens aide, and they are exempt from chapter 4, articles 5 and 6
31 of this title. All staff shall be subject to the conflict of interest
32 provisions of title 38, chapter 3, article 8.

33 5. Before conducting the first investigation, adopt rules that
34 establish procedures for receiving and processing complaints, including
35 guidelines to ensure each complainant has exhausted all reasonable
36 alternatives within the agency, conducting investigations, incorporating
37 agency responses into recommendations and reporting findings.

38 6. Notify the chief executive or administrative officer of the agency
39 in writing of the intention to investigate unless notification would unduly
40 hinder the investigation or make the investigation ineffectual.

41 7. Appoint an assistant to help the ombudsman-citizens aide
42 investigate complaints relating to child protective services in the
43 department of economic security. The assistant shall have expertise in child
44 protective services procedures and laws. Notwithstanding any law to the
45 contrary, the ombudsman-citizens aide and the assistant have access to child

1 protective services records and to any automated case management system used
2 by child protective services in the department of economic security.

3 8. INVESTIGATE COMPLAINTS BY A PARENT ALLEGING A VIOLATION OF A STATE
4 OR FEDERAL LAW OR AN ADMINISTRATIVE ACT BY AN EMPLOYEE OF A SCHOOL DISTRICT
5 OR CHARTER SCHOOL. THE PARENT SHALL OFFER ADEQUATE PROOF THAT THE PARENT HAS
6 EXHAUSTED ALL AVAILABLE REMEDIES TO RESOLVE THE COMPLAINT WITH THE SCHOOL
7 DISTRICT OR CHARTER SCHOOL. IF THE OMBUDSMAN-CITIZENS AIDE DETERMINES AFTER
8 AN INVESTIGATION THAT A VIOLATION OF LAW HAS OCCURRED, THE OMBUDSMAN-CITIZENS
9 AIDE SHALL NOTIFY THE SCHOOL DISTRICT OR CHARTER SCHOOL OF THE
10 OMBUDSMAN-CITIZENS AIDE'S DETERMINATION. WITHIN NINETY DAYS AFTER RECEIPT OF
11 THE DETERMINATION, THE ATTORNEY FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL
12 SHALL MAKE A WRITTEN RESPONSE AND DELIVER THE RESPONSE TO THE
13 OMBUDSMAN-CITIZENS AIDE.

14 B. After the conclusion of an investigation and notice to the head of
15 the agency pursuant to section 41-1379, the ombudsman-citizens aide may
16 present the ombudsman-citizens aide's opinion and recommendations to the
17 governor, the legislature, the office of the appropriate prosecutor or the
18 public, or any combination of these persons. The ombudsman-citizens aide
19 shall include in the opinion the reply of the agency, including those issues
20 that were resolved as a result of the ombudsman-citizens aide's preliminary
21 opinion or recommendation.